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SPONSORS: Jose R. Garcia-Pedrosa (Principal Sponsor), Sidney S. Eagles, Jr.

PROPOSAL: Amends § 45.9 of the House Rules of Procedure to clarify procedures for House of Delegates consideration of law school accreditation matters and to eliminate unnecessary delay in finalizing the awarding of provisional and full approval after a decision by the Council of the Section of Legal Education and Admissions to the Bar to grant such approval.

Amend House of Delegates Rule of Procedure §45.9 Law School Accreditation to read as follows:

§45.9 Law School Accreditation

(a) The Council of the Section of Legal Education and Admissions to the Bar shall advise the House of an action granting or denying provisional or full approval to a law school, or withdrawing the approval of a law school. No action of the House is required unless the law school appeals a denial or withdrawal of approval pursuant to Section 45.9(b). A decision of the Council to grant provisional or full approval is effective upon the action of the Council. A decision of the Council to deny or withdraw approval is effective upon expiration of the period provided for filing a notice of appeal under Section 45.9(b)(1) if the law school fails to file a timely notice of appeal, or, if a timely notice of appeal is filed, upon concurrence by the House in the decision of the Council.

(b) An appeal to the House from an action of the Council of the Section of Legal Education and Admissions to the Bar denying provisional or full approval to a law school, or withdrawing approval of a law school, shall be considered in accordance with the following procedures:

1. Notice of the appeal must be delivered to the Secretary of the Association at the ABA offices within 30 days after receipt by the law school of notification of the action of the Council;

2. The Council shall deliver to the Secretary a report with recommendations, including the record on which the Council based its decision, stating its action and the reasons therefor, within 15 days of the date notice of the appeal is delivered to the Secretary;

3. The school shall be provided with a copy of the Council’s report and may file a response, provided that such response is delivered to the Secretary within 30 days after receipt of the report;

4. The matter shall be included on the calendar at the meeting of the House following filing, or the expiration of the time for filing, the response provided for in subparagraph (3);

5. The materials described in subsections (2) and (3) above shall be made available to the delegates prior to the meeting at which the appeal will be considered;
(6) If the law school withdraws its appeal before the meeting of the House for which the matter has been calendared, no action of the House is required and the decision of the Council becomes final; and

(7) During any consideration of such a matter by the House, a representative of the school shall have the privilege of the floor with time limitations equal to those of the representative of the Section but without a vote. The House shall vote either to agree with the action or refer it back to the Council for reconsideration based on reasons specified by the House. An action denying provisional or full approval may be referred back to the Council a maximum of two times. The action of the Council following the second referral shall be final. An action withdrawing approval may be referred back to the Council only one time. The action of the Council following the referral shall be final.

(c) The Council of the Section of Legal Education and Admissions to the Bar shall file a Report with Recommendations to the House seeking concurrence of the House in any actions of the Council to adopt, revise or repeal the Standards, Interpretations, or Rules of Procedure for Approval of Law Schools.

(1) Once the action of the Council is placed on the calendar of a meeting of the House, the House shall at that meeting either concur with the Council’s decision or refer the decision back to the Council for further consideration. If the House refers a decision back to the Council, the House shall provide the Council with a statement setting forth the reasons for its referral.

(2) A decision by the Council to adopt, revise or repeal the Standards, Interpretations, or Rules of Procedure for Approval of Law Schools is subject to a maximum of two referrals back to the Council by the House. The decision of the Council following the second referral shall be final.

(Legislative Draft -- Additions underlined; deletions struck through)

House of Delegates Rule §45.9, Law School Accreditation

(a) A Report of an action of the Council of the Section of Legal Education and Admissions to the Bar granting provisional or full approval to a law school or withdrawing, suspending or terminating approval of a law school shall comply with the provisions of this Article and be considered in the same manner as other reports containing recommendations, except that a representative of the school shall have the privilege of the floor with time limitations equal to those of the representative of the Section presenting the report but without vote. The House shall vote either to agree with the action of the Council or refer it back to the Council for reconsideration based on reasons specified by the House. An action granting provisional or full approval may be referred back to the Council a maximum of two times. The action of the Council after the second referral shall be final. An action withdrawing, suspending or terminating approval may be referred back to the Council one time. The action of the Council after referral shall be final.
(ba) The Council of the Section of Legal Education and Admissions to the Bar shall advise the House of an action granting or denying provisional or full approval to a law school, or withdrawing the approval of a law school. No action of the House is required unless the law school appeals the action a denial or withdrawal of approval pursuant to Section 45.9 (be). A decision of the Council to grant provisional or full approval is effective upon the action of the Council. A decision of the Council to deny or withdraw approval is effective upon expiration of the period provided for filing a notice of appeal under Section 45.9(b)(1), if the law school fails to file a timely notice of appeal, or, if a timely notice of appeal is filed, upon concurrence by the House in the decision of the Council.

(be) An appeal to the House of Delegates from an action of the Council of the Section of Legal Education and Admissions to the Bar denying provisional or full approval to a law school, or withdrawing, suspending or terminating approval of a law school shall be considered in accordance with the following procedures:

1. Notice of the appeal must be delivered to the Secretary of the Association at the ABA offices within 30 days after receipt by the law school of notification by the Section of the action of its the Council;

2. The Section Council shall deliver to the Secretary a report with recommendations, including the record on which the Council based its decision, stating its action and the reasons therefor, within 15 days of the date notice of the appeal is delivered to the Secretary;

3. The school shall be provided with a copy of the Section's Council's report and may file a response, provided that such response must be delivered to the Secretary within 30 days after receipt of the report;

4. The Chair of the House matter shall be included the matter on the calendar at the meeting of the House following filing, or the expiration of the time for filing, the response provided for in subparagraph (3); and

5. All these The materials described in subsections (2) and (3) above shall be made available to the delegates prior to the meeting at which the appeal will be considered;

6. If the law school withdraws its appeal before the meeting of the House for which the matter has been calendared, no action of the House is required and the decision of the Council becomes final; and

7. During any consideration of such a matter by the House, a representative of the school shall have the privilege of the floor with time limitations equal to those of the representative of the Section but without a vote. The House shall vote either to agree with the action or refer it back to the Council for reconsideration based on reasons specified by the House. An action denying provisional or full approval
may be referred back to the Council a maximum of two times. The action of the Council following the second referral shall be final. An action withdrawing, suspending or terminating approval may be referred back to the Council only one time. The action of the Council following the referral shall be final.

(c) The Council of the Section of Legal Education and Admissions to the Bar shall file a Report with Recommendations to the House seeking concurrence of the House in any actions of the Council to adopt, revise, or repeal the Standards, Interpretations, or Rules of Procedure for Approval of Law Schools.

(1) Once the action of the Council is placed on the calendar of a meeting of the House, the House shall at that meeting either concur with the Council’s decision or refer the decision back to the Council for further consideration. If the House refers a decision back to the Council, the House shall provide the Council with a statement setting forth the reasons for its referral.

(2) A decision by the Council to adopt, revise or repeal the Standards, Interpretations, or Rules of Procedure for Approval of Law Schools is subject to a maximum of two referrals back to the Council by the House. The decision of the Council following the second referral shall be final.
Recommendation

RESOLVED, That the American Bar Association House of Delegates concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting the revisions to the Rules of Procedure for Approval of Law Schools and to Standard 103 and its Interpretations of the Standards for Approval of Law Schools dated February 2006.
EXECUTIVE SUMMARY

Summary of the Recommendation

That the House concur in the decisions of the Council of the Section of Legal Education and Admissions to the Bar to revise the Rules of Procedure for Approval of Law Schools and Standard 103 and its Interpretations.

Summary of the Issue that the Recommendation Addresses

The Rules of Procedure for Approval of Law Schools have not been comprehensively revised in many years, and they need revision, clarification and simplification in light of recent experience in applying the Rules.

Explanation of How the Proposed Policy Addresses the Issues

This is an important and comprehensive revision of the Rules of Procedure, the first in many years. The revisions clarify and simplify the Rules, and they address some difficulties that have been experienced in applying the Rules. The revisions also enhance the Council’s compliance with the Criteria for Recognition of the United States Department of Education, in anticipation of the Department’s review of the Council’s petition for re-recognition as the accrediting agency for programs leading to the first professional degree in law in the spring of 2006.

Summary of Minority Views or Opposition

No negative comments were received during the notice and comment period, and no opposition is known at this time.
RESOLVED, That the American Bar Association grants approval to
Amarillo College, Paralegal Studies Program, Amarillo, TX.

FURTHER RESOLVED, That the American Bar Association reapproves the
following paralegal programs: Yavapai College, Paralegal Studies Program,
Prescott, AZ; University of California, Riverside, Paralegal Certificate Program,
Riverside, CA; University of San Diego, Paralegal Program, San Diego, CA; Des
Moines Area Community College, Legal Assistant Program, Des Moines, IA;
Illinois Central College, Paralegal Program, Peoria, IL; South Suburban College,
Paralegal/Legal Assistant Program, South Holland, IL; Northern Essex
Community College, Paralegal Studies Program, Lawrence, MA; Lansing
Community College, Legal Assistant Program, Lansing, MI; Meredith College,
Paralegal Program, Raleigh, NC; Hilbert College, Paralegal Studies Program, Hamburg,
NY; Schenectady County Community College, Paralegal Studies Program,
Schenectady, NY; Lakeland Community College, Paralegal Studies Program,
Kirtland, OH; Peirce College, Paralegal Studies Program, Philadelphia, PA; and
Chattanooga State Technical Community College, Paralegal Studies Program,
Chattanooga, TN.

FURTHER RESOLVED, That the American Bar Association withdraws
the approval of the Virginia Western Community College, Legal Assistant
Program, Roanoke, VA, as of the adjournment of the February 2006 Meeting of
the House of Delegates, at the request of the institution.

FURTHER RESOLVED, That the American Bar Association extends the
terms of approval until the August 2006 Annual Meeting of the House of
Delegates for the following programs: Everest College, Legal Assistant Education
Program, Phoenix, AZ; California State University, East Bay, Paralegal Studies
Program, Hayward, CA; California State University, Paralegal Studies Program, Los
Angeles, CA; College of the Sequoias, Paralegal Program, Visalia, CA; De Anza
College, Paralegal Program, Cupertino, CA; Fullerton College, Paralegal Studies
Program, Fullerton, CA; Community College of Aurora, Paralegal Program, Aurora,
CO; Briarwood College, Paralegal Program, Southington, CT; Manchester Community
College, Legal Assistant Program, Manchester, CT; University of Hartford, HCW Legal
Studies Program, Hartford, CT; Wesley College, Paralegal Studies Program, Dover, DE;
Valencia Community College, Legal Assisting Program, Orlando, FL; Gainesville
College, Legal Assistant Program, Gainesville, GA; Washburn University, Legal Studies Program, Topeka, KS; Louisiana State University, Paralegal Studies Program, Baton Rouge, LA; University of New Orleans, Paralegal Studies Program, New Orleans, LA; North Shore Community College, Paralegal Program, Danvers, MA; Suffolk University, Paralegal Studies Program, Boston, MA; Harford Community College, Paralegal Studies Program, Bel Air, MD; Ferris State University, Legal Studies Program, Big Rapids, MI; Hamline University, Legal Studies Program, St. Paul, MN; Inver Hills Community College, Legal Assistant Program, Inver Grove Heights, MN; Minnesota Paralegal Institute, Legal Assistant Program, Minnetonka, MN; Winona State University, Paralegal Program, Winona, MN; New Hampshire Technical Institute, Paralegal Program, Concord, NH; Atlantic Cape Community College, Paralegal Program, Mays Landing, NJ; Bergen Community College, Paralegal Program, Paramus, NJ; Burlington County College, Paralegal Program, Pemberton, NJ; Gloucester County Community College, Paralegal Program, Sewell, NJ; Truckee Meadows Community College, Paralegal Program, Reno, NV; La Guardia Community College, CUNY, Paralegal Studies Program, Long Island City, NY; Lehman College, CUNY, Paralegal Studies Program, Bronx, NY; Marist College, Paralegal Program, Poughkeepsie, NY; Syracuse University, Legal Assistant Program, Syracuse, NY; Kent State University, Paralegal Studies Program, Kent, OH; Rhodes State College, Legal Assisting Technology, Lima, OH; Metropolitan College, Legal Studies, Legal Assistant Program, Tulsa, OK; University of Tulsa, Legal Assistant Program, Tulsa, OK; Clarion University of Pennsylvania (Venango Campus), Legal Business Studies Program, Oil City, PA; Gannon University, Legal Assistant Program, Erie, PA; Pennsylvania College of Technology, Legal Assistant Program, Williamsport, PA; Villanova University, Paralegal Program, Villanova, PA; Roger Williams University, Paralegal Studies Program, Bristol, RI; Florence-Darlington Technical College, Legal Assistant/Paralegal Program, Florence, SC; Trident Technical College, Legal Assistant/Paralegal Program, Charleston, SC; El Centro College, Paralegal Studies, Dallas, TX; Utah Valley State College, Paralegal Studies Program, Orem, UT; Northern Virginia Community College, Legal Assisting Program, Alexandria, VA; Highline Community College, Paralegal Program, Des Moines, WA; and Lakeshore Technical College, Legal Assistant Program, Cleveland, WI.
EXECUTIVE SUMMARY

1. **Summary of the Recommendation(s)**

   The Standing Committee on Paralegals is recommending that the House of Delegates grants approval to one paralegal education program, grants reapproval to fourteen programs, and withdraws the approval of one program at the request of the institution.

2. **Summary of the Issue which the Recommendation(s) Address**

   The programs recommended for approval and reapproval in the enclosed report meet the Guidelines for the Approval of Paralegal Education Programs.

3. **An Explanation of How the Proposed Policy Position Will Address the Issue**

   The programs recommended for approval and reapproval in this report have followed the procedures required by the Association and are in compliance with the Guidelines for the Approval of Paralegal Education Programs.

4. **A Summary of any Minority Views or Opposition which have been Identified**

   No other positions on this recommendation have been taken by other Association entities, affiliated organizations or other interested groups.
RECOMMENDATION

1 RESOLVED, That the American Bar Association opposes legislation and policies that prohibit, limit, or restrict placement into foster care of any child on the basis of sexual orientation of the proposed foster parent when such foster care placement is otherwise determined to be in the best interest of the child.
EXECUTIVE SUMMARY

Summary of the Recommendation

The proposed recommendation would build upon the ABA’s strong history of opposing discrimination on the basis of sexual orientation in areas related to adoption and parenting. This recommendation, if adopted, would put the ABA on the record in opposition to the enactment of legislation or the implementation of public policy that prohibits, limits, or restricts the placement into foster care of any child on the basis of the sexual orientation of the proposed foster parent when the placement is otherwise determined to be in the best interest of the child.

How Will the Proposed Policy Position Address the Issue

Currently, it is anticipated that next session four states – Georgia, Kentucky, Missouri, and Ohio – will introduce proposed amendments to their respective state constitutions that would prohibit lesbian and gay people from serving as foster parents. In addition, another 10 states may introduce bills that statutorily would ban lesbian and gay people from serving as foster parents.

In August 1995, the ABA adopted a policy supporting the enactment of legislation and implementation of public policies that would ensure that child custody or visitation is not denied or restricted on the basis of a parent’s sexual orientation. In February 1999, the ABA adopted a policy supporting “the enactment of laws and implementation of public policy [providing] that sexual orientation shall not be a bar to adoption when the adoption is determined to be in the best interests of the child.” Most recently, in 2003, the ABA adopted a policy supporting state laws and court decisions permitting second-parent adoptions by same-sex and other unmarried couples. All three policies were co-sponsored by the Family Law Section.

Summary of Issues which the Recommendation Addresses

As the current ABA policies and the reports accompanying those policies demonstrate, there are thousands of children in the United States who need stable, permanent homes with loving parents. Despite this growing need, it is anticipated that proposals will be introduced in fourteen (14) states to bar any lesbian or gay person from serving as foster parents based solely on their sexual orientation, and wholly irrespective of the individuals’ parenting abilities.

Contrary to the underlying premise of these proposals, in addition to the ABA, at least ten (10) child welfare, social science, and professional organizations have issued policy statements supporting foster care placement with lesbian, gay, bisexual and/or transgender (LGBT) people:

- Child Welfare League of America
- American Medical Association
- American Psychiatric Association
• American Academy of Pediatrics
• American Academy of Family Physicians
• American Academy of Child & Adolescent Psychiatry
• North American Council on Adoptable Children
• National Association of Social Workers
• American Psychological Association
• American Psychoanalytical Association

These policy statements are based on decades of research indicate that optimal development for children is based not on the sexual orientation of the parents, but on stable attachments to committed and nurturing adults.

Every child deserves a permanent home and all the love and care that good parents can provide. Prospective foster parents should be evaluated on the basis of their individual character and ability to parent, not on their sexual orientation.

**Summary of Minority Views or Opposition Identified**
None at this time
RESOLVED, That the American Bar Association reaffirms its opposition to legislation that places a dollar limit on recoverable damages that operates to deny full compensation to a plaintiff in a medical malpractice action.

RESOLVED, That the American Bar Association recognizes that the nature and extent of damages in a medical malpractice case are triable issues of fact (that may be decided by a jury) and should not be subject to formulas or standardized schedules.

FURTHER RESOLVED, That the ABA opposes the creation of health care tribunals that would deny patients injured by medical negligence the right to request a trial by jury or the right to receive full compensation for their injuries.
EXECUTIVE SUMMARY


The recommendation opposes the creation of “Health Courts” that would deny patients injured by medical negligence the right to request a trial by jury or the right to receive full compensation for their injuries. It reaffirms ABA policy that supports the right of an individual to request a trial by jury in medical negligence cases and reaffirms ABA policy that opposes the enactment of legislation that places a dollar limit on recoverable damages which can operate to deny a plaintiff in a medical malpractice action full compensation.

2. Summary of the issue which the recommendation addresses.

The question to be addressed is whether there should be state or federal legislation enacted to require the use of “Health Courts” to handle medical malpractice cases which would operate to deny patients injured by medical negligence the right to request a trial by jury or the right to receive full compensation for their injuries. A few states are beginning to explore the use of “Health Courts” to handle medical malpractice cases. Legislation, S. 1337 (Enzi, R-WY) and H.R. 1546 (Thornberry-R-TX), has been introduced in the U.S. House and Senate to provide grants to states to set up “Health Courts.” A group known as Common Good is developing a model “Health Courts” proposal that has been widely-disseminated in outline form.

3. Explanation of how the proposed policy position will address the issue.

A number of groups are providing input to Common Good. As of the writing of this report, the Common Good proposal is apparently still evolving. In order for the ABA to have an impact on these proposals, policy must be adopted by the House of Delegates at this meeting. In addition, if states seek the views of the ABA on proposals they are considering, it is important for the ABA to have policy in the area.

4. Summary of any minority views or opposition which has been identified.

No minority views or opposition have been communicated to the Standing Committee on Medical Professional Liability.
RESOLVED, That the American Bar Association approve the Uniform Foreign-Country Money Judgments Recognition Act, promulgated by the National Conference of Commissioners on Uniform State Laws in 2005 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.
EXECUTIVE SUMMARY


That the ABA approve the Uniform Foreign-Country Money Judgments Recognition Act as an appropriate “Act for those States desiring to adopt the substantive law suggested therein.”

2. Summary of the issue which the recommendation addresses.

This Act updates the rules for recognition and enforcement of foreign-country money judgments that were initially established in 1962. The Act is timely because of the enhanced importance of international trade. Recognition of American judgments in foreign countries is enhanced with appropriate rules for recognizing foreign-country judgments in American courts.

3. Please explain how the proposed policy position will address the issue.

The Act has appropriate rules to implement the objective stated above.

4. Summary of any minority views or opposition which have been identified.

No opposition is known to exist.
AMERICAN BAR ASSOCIATION
NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS
REPORT OF THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association approve the Uniform Debt-
2 Management Services Act, promulgated by the National Conference of Commissioners
3 on Uniform State Laws in 2005 as an appropriate Act for those States desiring to adopt
4 the specific substantive law suggested therein.
EXECUTIVE SUMMARY

1. **Summary of the Recommendation.**

That the ABA approve the Uniform Debt-Management Services Act as an appropriate “Act for those States desiring to adopt the substantive law suggested therein.”

2. **Summary of the issue which the recommendation addresses.**

This Act provides for regulation of debt management and counseling services for insolvent debtors, whether the services are in the nature of counseling or working out payment of debts.

3. **Please explain how the proposed policy position will address the issue.**

The Act has appropriate rules to implement the objective stated above.

4. **Summary of any minority views or opposition which have been identified.**

No opposition is known to exist.
RESOLVED, That the American Bar Association approve the Uniform Certificate of Title Act, promulgated by the National Conference of Commissioners on Uniform State Laws in 2005 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.
EXECUTIVE SUMMARY

1. **Summary of the Recommendation.**

   That the ABA approve the Uniform Certificate of Title Act as an appropriate “Act for those States desiring to adopt the substantive law suggested therein.”

2. **Summary of the issue which the recommendation addresses.**

   This Act updates motor vehicle certificate of title law to make it consistent with the 2001 Revisions of Article 9 of the Uniform Commercial Code, and to make it feasible to have electronic certificate of title registrations.

3. **Please explain how the proposed policy position will address the issue.**

   The Act has appropriate rules to implement the objective stated above.

4. **Summary of any minority views or opposition which have been identified.**

   No opposition is known to exist.
RESOLVED, That the American Bar Association approve the Uniform Assignment of
Rents Act, promulgated by the National Conference of Commissioners on Uniform State
Laws in 2005 as an appropriate Act for those States desiring to adopt the specific
substantive law suggested therein.
1. **Summary of the Recommendation.**
   
   That the ABA approve the Uniform Assignment of Rents Act as an appropriate “Act for those States desiring to adopt the substantive law suggested therein.”

2. **Summary of the issue which the recommendation addresses.**
   
   This Act provides a security interest to creditors who take assignments of rents for real property as part of lending on the property. It clarifies existing ambiguities as to the effect of taking assignments of rents for the purposes of securing a real property loan.

3. **Please explain how the proposed policy position will address the issue.**
   
   The Act has appropriate rules to implement the objective stated above.

4. **Summary of any minority views or opposition which have been identified.**
   
   No opposition is known to exist.
RESOLVED, That the American Bar Association urges all lawyers to contribute to the public good through community service in addition to exercising their professional responsibility to deliver pro bono service in accordance with Model Rules of Professional Conduct Rule 6.1.

FURTHER RESOLVED, That the American Bar Association urges legal providers and employers to adopt policies and practices that afford lawyers the time and opportunity to engage in community service, and urges law schools and state, local and territorial bar associations to take all appropriate steps to facilitate and encourage lawyers to undertake such service.
EXECUTIVE SUMMARY

1. Summary of Recommendation

To address the importance of lawyers becoming involved in their communities, the Commission on the Renaissance of Idealism in the Legal Profession and the Senior Lawyers Division offer a recommendation which urges all lawyers to contribute to the public good through community service in addition to their professional responsibility to deliver pro bono service in accordance with Model Rules of Professional Conduct Rule 6.1. The recommendation also urges legal providers and employers to adopt policies and practices that afford lawyers the time and opportunity to engage in community service, and urges law schools and state, local and territorial bar associations to take all appropriate steps to facilitate and encourage lawyers to undertake such service.

2. Summary of the Issue That the Recommendation Addresses

The resolution seeks to provide a clear and strong statement of the position of the Association on the role individual lawyers should play in performing community service activities and the critical role legal employers and providers, law schools, and bar associations play in encouraging and facilitating lawyer participation in this work. It also speaks to the importance of differentiating community service work from the pro bono and public service ethical responsibilities of lawyers set out in the Model Rules of Professional Conduct Model Rule 6.1


The proposed policy position reinforces and urges the expansion of the community service role of lawyers, legal employers, bar associations, law schools and the legal profession overall.

4. Summary of Any Minority Views of Opposition Which Have Been Identified

No known opposition or minority views have been identified.
RESOLVED, That the American Bar Association, without taking a position on
the advisability of the establishment of an administrative process as an exclusive
mechanism for the compensation of an asbestos-related injury subject to tort-based
claims, recommends that any legislation establishing an administrative process in lieu of
state, territorial or federal tort-based asbestos-related claims should insure access by
claimants to adequate representation in the claims process, including:

1. A claimant’s assistance program with adequate funding, personnel, and
resources to provide effective representation as to all aspects of submitting
and presenting a claim, at no cost to the claimant. This should include
investigation of work and medical history and other relevant facts necessary
for meeting eligibility and payment standards and criteria. It should also
include reasonable medical evaluations as needed.

2. In cases pending in the courts or administrative systems on the effective date
of any legislation foreclosing further litigation in the courts or administrative
systems, provisions that would adequately compensate claimants and their
attorneys for attorney services and costs reasonably expended or incurred on
their behalf in the terminated litigation in the courts or administrative systems.

3. Access to private attorneys without unreasonable restrictions as to fees or
other aspects of necessary representation in the claims process, if desired by a
claimant.
EXECUTIVE SUMMARY

SUMMARY OF THE RECOMMENDATION

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should insure access by claimants to adequate representation in the claims process, including:

1. A claimant’s assistance program with adequate funding, personnel, and resources to provide effective representation as to all aspects of submitting and presenting a claim, at no cost to the claimant. This should include investigation of work and medical history and other relevant facts necessary for meeting eligibility and payment standards and criteria. It should also include reasonable medical evaluations as needed.

2. In cases pending in the courts or administrative systems on the effective date of any legislation foreclosing further litigation in the courts or administrative systems, provisions that would adequately compensate claimants and their attorneys for attorney services and costs reasonably expended or incurred on their behalf in the terminated litigation in the courts or administrative systems.

3. Access to private attorneys without unreasonable restrictions as to fees or other aspects of necessary representation in the claims process, if desired by a claimant.

SUMMARY OF THE ISSUE WHICH THE RECOMMENDATION ADDRESSES

There has been consideration of the removal of claims from the courts and their transfer to an exclusive alternative administrative mechanism (such as a trust fund). If a state, territory or Congress decides to create such an alternative administrative mechanism, this Recommendation provides a generic element or set of elements for inclusion in the alternative mechanism adopted.

AN EXPLANATION OF HOW THE PROPOSED POLICY POSITION WILL ADDRESS THE ISSUE

The policy would not conflict with or change prior policy. Rather, it would compliment prior policy by providing suggestions of basic elements for any alternative administrative remedy a state, territory or Congress chose to adopt in order to address the crisis in asbestos claims.

SUMMARY OF ANY MINORITY VIEWS OR OPPOSITION WHICH HAVE BEEN IDENTIFIED

There is none known at this time.
AMERICAN BAR ASSOCIATION
TORT TRIAL AND INSURANCE PRACTICE SECTION
REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

RESOLVED, That the American Bar Association, without taking a position on
the advisability of the establishment of an administrative process as an exclusive
mechanism for the compensation of an asbestos-related injury subject to tort-based
claims, recommends that any legislation establishing an administrative process in lieu of
state, territorial or federal tort-based asbestos-related claims should insure that awards to
claimants not be depleted by taxation or by subrogation from any private or governmental
entity and should not unduly foreclose independent claims existing under state, territorial,
or federal law relating to safety or other obligations of employers.
EXECUTIVE SUMMARY

SUMMARY OF THE RECOMMENDATION

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should insure that awards to claimants not be depleted by taxation or by subrogation from any private or governmental entity and should not unduly foreclose independent claims existing under state, territorial, or federal law relating to safety or other obligations of employers.

SUMMARY OF THE ISSUE WHICH THE RECOMMENDATION ADDRESSES

The proposal responds to the concern that compensation to claimants under an administrative process could be siphoned off by taxation, subrogation, collateral source rules, or claims of third parties. It also responds to the concern that certain legal claims existing under laws relating to safety or obligations of employers not be foreclosed by a new administrative remedy.

EXPLANATION OF HOW THE PROPOSED POLICY POSITION WILL ADDRESS THE ISSUE

The policy would provide suggestions of basic elements for any alternative administrative remedy a state, territory or Congress chose to adopt in order to address the crisis in asbestos claims. The decision to adopt an alternative administrative mechanism or remedy affecting all asbestos claims is currently under consideration. The Recommendation does not take a position concerning the adoption of an alternative administrative mechanism or remedy.

SUMMARY OF ANY MINORITY VIEWS OR OPPOSITION WHICH HAVE BEEN IDENTIFIED

At this time, none have been identified.
RESOLVED, That the American Bar Association, without taking a position on
the advisability of an administrative process as an exclusive mechanism for the
compensation of an asbestos-related injury subject to tort-based claims, recommends that
any legislation establishing an administrative process in lieu of state, territorial or federal
tort-based asbestos-related claims should contain the following provisions to insure
adequate up-front financing and disclosure of certain information concerning the
contributors.

1. Any exclusive administrative mechanism should ensure that there is
   adequate funding to meet anticipated claims, with priority given to
   more serious cases, including, in the first five years, short-term
   financing.

2. Before declaring any exclusive administrative mechanism operational,
   the administrator should insure that he or she has received adequate
   information identifying the contributors to any exclusive administrative
   mechanism and the amount of their contribution and as to their ability
   to meet their contribution obligations as they come due. The
   declaration that any exclusive administrative mechanism is operational
   should not take effect for at least 30 days after the administrator
   certifies that he or she has received the requisite information described
   in the sentence above and has disclosed the information in an official
   publication, such as the federal register for the federal government.

3. Until the administrator declares any exclusive administrative
   mechanism operational and it becomes operational, pending lawsuits
   should continue in the courts unabated.
EXECUTIVE SUMMARY

SUMMARY OF THE RECOMMENDATION

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos related claims should contain the following provisions to insure adequate up-front financing and disclosure of certain information concerning the contributors.

1. Any exclusive administrative mechanism should ensure that there is adequate funding to meet anticipated claims, with priority given to more serious cases, including, in the first five years, short-term financing.

2. Before declaring any exclusive administrative mechanism operational, the administrator should insure that he or she has received adequate information identifying the contributors to any exclusive administrative mechanism and the amount of their contribution and as to their ability to meet their contribution obligations as they come due. The declaration that any exclusive administrative mechanism is operational should not take effect for at least 30 days after the administrator certifies that he or she has received the requisite information described in the sentence above and has disclosed the information in an official publication, such as the federal register for the federal government.

3. Until the administrator declares any exclusive administrative mechanism operational and it becomes operational, pending lawsuits should continue in the courts unabated.

SUMMARY OF THE ISSUE WHICH THE RECOMMENDATION ADDRESSES

There has been consideration of the removal of claims from the courts and their transfer to an exclusive alternative administrative mechanism (such as a trust fund). If a state, territory or Congress decides to create such an alternative administrative mechanism, this Recommendation provides a generic element or set of elements for inclusion in the alternative mechanism adopted.

AN EXPLANATION OF HOW THE PROPOSED POLICY POSITION WILL ADDRESS THE ISSUE

The policy would not conflict with or change prior policy. Rather, it would complement prior policy by providing suggestions of basic elements for any alternative administrative remedy a state, territory or Congress chose to adopt in order to address the crisis in asbestos claims.

SUMMARY OF ANY MINORITY VIEWS OR OPPOSITION WHICH HAVE BEEN IDENTIFIED

There are none known at this time.
RESOLVED, That the American Bar Association, without taking a position on the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should contain the following contingent provisions to respond to any potential occurrence of a shortfall of funds:

1. A mechanism should be established whereby the administrator determines and announces on a speedy basis when the administrative process has encountered or anticipates a shortfall.

2. If there are not sufficient funds to pay claims, there should be a remedy in the courts. The claims should be allowed to be filed in State, Territorial, or Federal Court as provided under those jurisdictions’ statutes and rules of civil procedure. Nothing in this resolution should be interpreted to suggest the extension of jurisdiction or venue beyond that which already exists under those jurisdictions’ statutes and rules.

3. Claimants with mesothelioma and/or whom a physician has certified have a reasonable life expectancy of less than twelve months, should be allowed immediately to file suit in any appropriate court, as stated herein. No court should be prevented from establishing case management orders, scheduling orders, or other appropriate orders to administer and adjudicate the cases transferred to the court system.

4. Any applicable statute of limitations or statute of repose should be tolled during the existence of any administrative process and for a period of 180 days after the time that the claimant is eligible to return to the court system to file or refile suit, unless applicable State, Federal, or Territorial law provides for a longer tolling period within such jurisdiction.
EXECUTIVE SUMMARY

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should contain the following contingent provisions to respond to any potential occurrence of a shortfall of funds:

1. A mechanism whereby the administrator determines and announces on a speedy basis when the administrative process has encountered or anticipates a shortfall.

2. If there are not sufficient funds to pay claims, a remedy in the courts. Nothing in this resolution should be interpreted to suggest the extension of jurisdiction or venue beyond that which already exists under those jurisdictions’ statutes and rules.

3. Claimants with mesothelioma and/or whom a physician has certified have a reasonable life expectancy of less than twelve months, should be allowed immediately to file suit in any appropriate court. No court should be prevented from establishing case management orders, scheduling orders, or other appropriate orders to administer and adjudicate the cases transferred to the court system.

4. Any applicable statute of limitations or statute of repose should be tolled during the existence of any administrative process and for a period of 180 days after the time that the claimant is eligible to return to the court system unless applicable State, Federal, or Territorial law provides for a longer tolling period within such jurisdiction.

SUMMARY OF THE ISSUE WHICH THE RECOMMENDATION ADDRESSES

There has been consideration of the removal of claims from the courts and their transfer to an exclusive alternative administrative mechanism (such as a trust fund). If a state, territory or Congress decides to create such an alternative administrative mechanism, this Recommendation provides a generic element or set of elements for inclusion in the alternative mechanism adopted.

AN EXPLANATION OF HOW THE PROPOSED POLICY POSTION WILL ADDRESS THE ISSUE

The policy would not conflict with or change prior policy. Rather, it would compliment prior policy by providing suggestions of basic elements for any alternative administrative remedy a state, territory or Congress chose to adopt in order to address the crisis in asbestos claims.

SUMMARY OF ANY MINORITY VIEWS OR OPPOSITION WHICH HAVE BEEN IDENTIFIED

At this time, none have been identified.
AMERICAN BAR ASSOCIATION
TORT TRIAL AND INSURANCE PRACTICE SECTION
REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association supports proper care and treatment of
2 animals as an essential part of the response to any disaster or emergency situation as part of
3 any emergency preparedness operational plan.
EXECUTIVE SUMMARY

SUMMARY OF THE RECOMMENDATION

This recommendation is intended to address concerns regarding the proper care and treatment of pets, service animals and other animals in a disaster or emergency. It calls for assuring proper care and treatment of animals in a disaster or emergency and the inclusion of proper care and treatment of animals in emergency preparedness operational plans. It also provides that emergency preparedness operational plans of all governmental agencies be required to take into account the needs of individuals with household pets and service animals following a major disaster or emergency.

SUMMARY OF THE ISSUE WHICH THE RECOMMENDATION ADDRESSES

The proposal responds to the concern that emergency preparedness has not addressed the proper care and treatment of animals following a major disaster or emergency. This was illustrated with Hurricane Katrina where the failure to have plans or procedures which provide for proper care and treatment of animals not only caused the loss of many animals, but also contributed to the loss of human lives where people were unwilling to abandon their pets or service animals.

EXPLANATION OF HOW THE PROPOSED POLICY POSITION WILL ADDRESS THE ISSUE

The policy would require emergency preparedness operational plans that are implemented following a major disaster or emergency to provide for the proper care and treatment of animals and the needs of individuals with household pets and service animals.

SUMMARY OF ANY MINORITY VIEWS OR OPPOSITION WHICH HAVE BEEN IDENTIFIED

At this time, none have been identified.
AMERICAN BAR ASSOCIATION
COMMISSION ON IMMIGRATION
REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

RESOLVED, that the American Bar Association supports the due process right to counsel for all persons in removal proceedings, and the availability of legal representation to all non-citizens in immigration-related matters.

FURTHER RESOLVED, that the American Bar Association supports:

(a) expansion of the federal “legal orientation program” to all detained and non-detained persons in removal proceedings;

(b) establishment of a system to screen and to refer indigent persons with potential relief from removal - as identified in the expanded “legal orientation program” - to pro bono attorneys, Legal Services Corporation sub-grantees, charitable legal immigration programs, and government-funded counsel;

(c) establishment of a system to provide legal representation, including appointed counsel and guardians ad litem, to mentally ill and disabled persons in all immigration processes and procedures, whether or not potential relief may be available to them; and

(d) legislation to overturn the “no cost to the government” restriction on representation in removal proceedings.
EXECUTIVE SUMMARY

Summary of Recommendation:

This recommendation supports the due process right to counsel for all persons in removal proceedings, and the availability of legal representation to all non-citizens in immigration-related matters. It supports: (1) expansion of the federal “legal orientation program” to all persons in removal proceedings; (2) establishment of a system to refer indigent persons with potential relief from removal to counsel; (3) establishment of a system to provide counsel and guardians ad litem to mentally ill and disabled persons in all immigration processes and procedures; and (4) legislation to overturn the “no cost to the government” restriction on representation in removal proceedings.

Summary of the Issue Which the Recommendation Addresses:

By statute, persons in removal proceedings have “the privilege of being represented” by counsel, but “at no expense to the Government.”\(^1\) As a result, most immigrants must negotiate removal proceedings without representation. Not surprisingly, pro se immigrants fare far worse in these proceedings than do those with legal representation. Put differently, removal cases too often turn on an immigrant’s income, rather than on the merits of his or her claim. In recent years, the grounds of removal have expanded, the available relief from removal has been restricted, and the use of detention (which impedes the ability of immigrants to obtain counsel) has skyrocketed. Several extremely vulnerable populations of immigrants have been identified, including unaccompanied alien children and the mentally ill and disabled. It is important that the ABA works to protect these groups.

Explanation of How the Proposed Policy Position Will Address the Issue:

The resolution supports a system that would: provide legal information to all persons in removal proceedings; refer indigent persons with potential relief to counsel; establish a system to provide counsel and guardians ad litem to mentally ill and disabled persons in all immigration processes; and support overturning the restriction on representation in removal proceedings “at no cost to the government.” The resolution would promote judicial efficiency and protect the rights of non-citizens facing removal.

Summary of Any Minority Views or Opposition Which Have Been Identified:

The Criminal Justice Section has expressed concern regarding the resolution’s support for legislation to overturn the “no cost to the government” restriction on representation in removal proceedings.

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\(^1\)Immigration and Nationality Act (INA) § 292.
RESOLVED, that the American Bar Association supports a regulated, orderly and safe system of immigration to the United States that promotes national security, and the creation of sufficient legal channels for the admission of needed workers and their immediate families.

FURTHER RESOLVED, that the American Bar Association supports a comprehensive approach to immigration reform that fairly and realistically addresses the U.S. undocumented population, the need for immigrant labor, the value of timely family reunification, and the need for an effective and credible immigration enforcement strategy, to include:

(a) a temporary worker program for undocumented laborers and for necessary future workers that includes: (1) a path to lawful permanent residence and U.S. citizenship; (2) labor protections and job portability; (3) a good moral character requirement and stringent identity and security checks; (4) protections to assure that U.S. workers are not displaced or otherwise disadvantaged;

(b) a path to lawful permanent residence and U.S. citizenship for undocumented persons who entered the United States as minors and have developed significant equitable ties to the United States, subject to a good moral character requirement and security screening;

(c) an immigration enforcement plan that: (1) respects domestic and international legal norms; (2) includes mechanisms to evaluate the effectiveness of enforcement strategies; (3) allows verification of employment eligibility in a simple, secure and effective way; and (4) is cost-effective and adequately resourced; and

(d) expanded and coordinated government programs to teach immigrants English, prepare them for citizenship, acculturate them in core U.S. civic values, and otherwise promote their integration into their adopted nation.
EXECUTIVE SUMMARY

Summary of Recommendation:

This recommendation supports a regulated, orderly, and safe immigration system that promotes national security, addresses the undocumented population, need for immigrant labor, value of family reunification, and the need for an effective enforcement strategy. The system should include temporary worker programs for undocumented laborers and necessary future workers that include a path to lawful permanent residence, labor protections, identity and security checks, and protections so that U.S. workers are not disadvantaged. The resolution also includes support for lawful permanent residence and citizenship for undocumented persons who entered the U.S. as minors and have significant ties to the U.S.

Summary of the Issue Which the Recommendation Addresses:

At present, the U.S. immigration system raises significant concerns. This recommendation addresses the fractured state of the U.S. immigration system and attempts to provide a coherent set of principles that should guide immigration reform legislation. At present, the U.S. immigration system is characterized by escalating migrant crossing deaths, an expanding undocumented population despite significant increases in immigration enforcement funding, divided families, and an overall failure to deliver on its basic promises.

Explanation of How the Proposed Policy Position Will Address the Issue:

The proposed resolution supports a regulated and orderly immigration system. It would allow essential workers and their families to earn legal status through work; provide legal status to undocumented persons of good moral character who entered the United States as children; support a multi-faceted and credible immigration enforcement system; and support a coordinated effort to integrate the nation’s record number of newcomers.

Summary of Any Minority Views or Opposition Which Have Been Identified:

None to date.
RESOLVED, that the American Bar Association urges an administrative agency structure that will provide all non-citizens with due process of law in the processing of their immigration applications and petitions, and in the conduct of their hearings or appeals, by all officials with responsibility for implementing U.S. immigration laws. Such due process in removal proceedings should include proceedings like those governed by the Administrative Procedure Act, in person and on the record, with notice and opportunity to be heard, and a decision that includes findings of facts and conclusions of law; availability of full, fair, and meaningful review in the federal courts where deportation or removal from the United States is at stake; and the restoration of discretion to immigration judges when deciding on the availability of certain forms of relief from removal.

FURTHER RESOLVED, that the American Bar Association supports the neutrality and independence of immigration judges, both at the trial and appellate levels, and of any federal agency by which they are employed, so that such judges and agencies are not subject to the control of any executive branch cabinet officer.

FURTHER RESOLVED, that the American Bar Association opposes retroactivity provisions in immigration laws that impose burdens or reduce benefits available to persons while depriving them of the ability to take such laws into account in making their decisions or shaping their conduct.
EXECUTIVE SUMMARY

Summary of Recommendation:
This recommendation urges an administrative agency structure for the implementation of immigration laws that will provide non-citizens with due process protections throughout the immigration process. It opposes retroactivity of immigration laws that impose burdens or reduce benefits available. The recommendation supports protections like those governed by the Administrative Procedure Act, including full, fair, and meaningful administrative and judicial review. In addition, the recommendation advocates for neutral and independent immigration judges and an independent federal agency employing them, so that they are not subject to the control of any executive branch cabinet officer. The recommendation also urges that discretion be restored to immigration judges.

Summary of the Issue Which the Recommendation Addresses:
This recommendation urges an administrative agency structure for the implementation of immigration laws that will provide non-citizens with due process protections throughout the immigration process. It opposes retroactivity of immigration laws that impose burdens or reduce benefits available. The recommendation supports protections like those governed by the Administrative Procedure Act, including full, fair, and meaningful administrative and judicial review. In addition, the recommendation advocates for neutral and independent immigration judges and an independent federal agency employing them, so that they are not subject to the control of any executive branch cabinet officer. The recommendation also urges that discretion be restored to immigration judges.

Explanation of How the Proposed Policy Position Will Address the Issue:
This Recommendation urges that all removal hearings conform to accepted norms of due process, including the right to be notified of charges, to examine and rebut evidence, to be present, to defend oneself with legal assistance, and to obtain a decision that is based on a record that is subject to meaningful administrative and judicial review. The recommendation addresses retroactive application of laws and urges that courts continue to import basic norms of ex post facto analysis more fully and directly. The recommendation urges the restoration of discretion to Immigration Judges in the interest of fairness, proportionality, family unification, and justice. More broadly, the recommendation implies a need for Congress to rethink discretion and deference in immigration law. The recommendation also urges that all authority to conduct removal proceedings should be restored to immigration judges who should have judicial independence from prosecutorial supervision.

Summary of Any Minority Views or Opposition Which Have Been Identified:
None to date.
RESOLVED, that the American Bar Association supports:

(a) a system for administering our immigration laws that is transparent, user-friendly, accessible, fair, and efficient, and that has sufficient resources to carry out its functions in a timely manner;

(b) the development of efficient interagency procedures to ensure that those involved in immigration matters have a clearly identified means for addressing and resolving issues that require action by more than one of the federal agencies that have jurisdiction;

(c) vigilant enforcement against the unauthorized practice of law and ineffective assistance of counsel in immigration matters, and the development of mechanisms to ensure that substantive and procedural rights are not prejudiced for applicants for immigration relief or benefits who have been victimized by the unauthorized practice of law or ineffective assistance of counsel;

(d) free availability of user-friendly legal resources for participants in immigration matters, and the development of self-help assistance centers in all facilities where immigration matters are processed or adjudicated;

(e) the adoption of reasonable discovery procedures for immigration proceedings that are consistent with best practices in other administrative agencies; and

(f) the development of a standardized, efficient process for the timely handling of Freedom of Information Act requests for immigration matters that ensures compliance with statutory deadlines.
EXECUTIVE SUMMARY

Summary of Recommendation:
This recommendation supports a transparent, user-friendly, accessible, fair, and efficient system for administering immigration laws that has sufficient resources to carry out its functions in a timely manner. The recommendation supports the development of efficient interagency procedures to ensure that individuals have clear means for addressing and resolving issues that require action by more than one of the federal agencies with jurisdiction over immigration matters. The recommendation also supports vigilant enforcement against the unauthorized practice of law and ineffective assistance of counsel in immigration matters, and the development of mechanisms to ensure that the substantive and procedural rights of victims of these practices are not prejudiced. The recommendation also supports free availability of user-friendly legal resources for participants in immigration matters, including the development of self-help assistance centers in facilities where immigration matters are processed. Finally, the recommendation supports the development of a standardized process for the Department of Homeland Security when handling Freedom of Information Act (FOIA) requests.

Summary of the Issues Which the Recommendation Addresses:
The protections of our immigration laws, and justice itself, are illusory if the federal agencies charged with administering these laws are unable to carry out their duties in a timely and fair manner. Unfortunately, timely and fair administration of our immigration laws is much more the exception than the rule in today’s system. The former INS has been divided into several agencies within the Department of Homeland Security (DHS) that do not work efficiently together. DHS is plagued by severe and persistent backlogs that lead to lengthy delays (often several years) in the adjudication of well-founded and properly filed applications for immigration benefits. Immigration processing is also impeded by unauthorized practice of law, which deprives victims of their substantive and procedural rights. Finally, due process is impeded by the lack of a standardized process for the Department of Homeland Security when handling Freedom of Information Act (FOIA) requests.

Explanation of How the Proposed Policy Position Will Address the Issue:
This recommendation supports a system for administering our immigration laws that is transparent, user-friendly, accessible, fair, and efficient. It supports the development of efficient interagency procedures; supports vigilant enforcement against the unauthorized practice of law in immigration matters; supports free availability of user-friendly legal resources for participants in immigration matters; and supports the development of a standardized process for the Department of Homeland Security when handling Freedom of Information Act (FOIA) requests.

Summary of Any Minority Views or Opposition Which Have Been Identified:
None to date.
RESOLVED, that the American Bar Association opposes the detention of non-citizens in removal proceedings except in extraordinary circumstances. Such circumstances may include a specific determination that the individual (1) presents a threat to national security, (2) presents a threat to public safety, (3) presents a threat to another person or persons, or (4) presents a substantial flight risk. The decision to detain a non-citizen should be made only in a hearing that is subject to judicial review.

FURTHER RESOLVED, that the American Bar Association supports:

(a) the use of humane alternatives to detention that are the least restrictive necessary to ensure that non-citizens appear in immigration proceedings, including such alternatives as supervised pre-hearing release and bond based on the individual’s economic means and risk of flight; and

(b) the provision of a prompt hearing before an Immigration Judge for any alien in removal proceedings who is denied release with or without bond, including meaningful administrative review and judicial oversight.

FURTHER RESOLVED, that the American Bar Association supports, for those non-citizens detained under a final order of removal or who are detained during deportation proceedings for ninety days or more:

(a) the establishment of mechanisms to ensure that immigration authorities have complete, accurate, and readily available information to inform the administrative review and judicial oversight of the individual’s detention; and

(b) mechanisms to ensure full compliance with the decisions of the Supreme Court in Zadvydas v. Davis and Clark v. Martinez.
EXECUTIVE SUMMARY

Summary of Recommendation:

This resolution opposes the detention of non-citizens in immigration removal proceedings except in extraordinary circumstances, which would include a determination, following a hearing and subject to judicial review, that a person presents a threat to national security or public safety, or presents a substantial flight risk. The resolution supports the use of alternatives to detention, including supervised pre-hearing release and bond. The resolution also supports prompt hearings, meaningful administrative review, and judicial oversight for detainees who are denied release. For persons detained during immigration proceedings or under a final order of removal, the resolution supports the establishment of mechanisms to ensure full compliance with Supreme Court case law.

Summary of the Issue Which the Recommendation Addresses:

Immigration and Customs Enforcement (ICE) of the Department of Homeland Security (DHS) detains approximately 23,000 persons per day. There are concerns about inadequate ICE detention standards and poor conditions at detention facilities. Limited detention capacity and an increasing detainee population has sparked national efforts over the past several years to implement various alternatives to detention. In FY 2005, Congress appropriated $14.2 million in funding for the purpose of examining alternatives to detention. Alternatives to detention offer the prospect of considerable cost savings as well as humane treatment. ICE is also responsible for making custody determinations for all non-citizens who are subject to deportation, and may only detain non-citizens under final orders of removal for the period necessary to bring about actual deportation. However, several compliance concerns remain, and there are additional concerns regarding conditions at detention facilities.

Explanation of How the Proposed Policy Position Will Address the Issue:

The proposed recommendation supports the use of humane alternatives to detention that would maintain the goal that non-citizens appear in court while providing cost savings as well as less restrictive, more humane treatment. The recommendation supports due process protections including prompt judicial hearings for non-citizens denied release, and meaningful administrative review and judicial oversight of decisions. Additionally, the recommendation provides for mechanisms to ensure full compliance with existing law including Supreme Court cases and regulations regarding post-order custody review and release when appropriate.

Summary of Any Minority Views or Opposition Which Have Been Identified:

None to date.
RESOLVED, that the American Bar Association supports the establishment of laws, policies, and practices that ensure optimum access to legal protection for refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge. Such measures should include:

(a) the elimination of unduly restrictive or inflexible limitations such as the one-year deadline for asylum seekers to initiate claims;

(b) the establishment of policies and practices that ensure prompt identification of asylum seekers at the border, or in expedited removal proceedings, and that enable asylum officers to grant asylum administratively after the “credible fear” interview;

(c) the creation of fair and consistently applied screening procedures for those intercepted or interdicted, in order to quickly identify refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge; and

(d) the development of a refugee visa as well as improved visa and pre-clearance policies for refugees who cannot travel to the United States because of existing immigration policies.
EXECUTIVE SUMMARY

Summary of Recommendation:

This recommendation supports the establishment of laws, policies, and practices that ensure optimum access to legal protection for refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge. The recommendation supports measures to ensure such access, including: eliminating unduly restrictive limitations that prevent asylum seekers from initiating claims; establishing practices that ensure the prompt identification of asylum seekers and that enable asylum officers to grant asylum administratively after the “credible fear” interview; creating fair screening procedures for refugees intercepted or interdicted in order to quickly identify refugees, asylum seekers, and torture victims; and developing a refugee visa and pre-clearance policies to assist refugees in coming to the United States.

Summary of the Issues Which the Recommendation Addresses:

This recommendation addresses the issues of unduly restrictive or inflexible limitations to initiating asylum claims; the failure to promptly identify asylum seekers at the border or in expedited removal proceedings; the unnecessary burden on immigration courts and officers that could be alleviated by permitting asylum officers to grant asylum; the need to create fair screening procedures for those intercepted or interdicted refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge; and the development of a refugee visa and pre-clearance policies for refugees who cannot travel to the U.S. because of current immigration policies.

Explanation of How the Proposed Policy Position Will Address the Issue:

The proposed recommendation seeks to eliminate unduly restrictive or inflexible limitations to asylum claims, such as the one-year deadline for asylum seekers to initiate claims. The recommendation supports policies and practices that ensure the prompt identification of asylum seekers at the border or in expedited removal proceedings, and that enable asylum officers to grant asylum administratively after the credible fear interview. It recommends the creation of fair and consistently applied screening procedures for those intercepted or interdicted in order to quickly identify refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge. Finally, it supports the development of a refugee visa as well as improved visa and pre-clearance policies for refugees who cannot travel to the United States because of existing immigration policies.

Summary of Any Minority Views or Opposition Which Have Been Identified:

None to date.
AMERICAN BAR ASSOCIATION
COMMISSION ON IMMIGRATION
REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

RESOLVED, that the American Bar Association supports avenues for lawful immigration status, employment authorization, and public benefits, for victims and derivative family members, of human trafficking and crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act, which occur in the United States or its territories.

FURTHER RESOLVED, that the American Bar Association supports:

(a) allowing a spouse, intended spouse as defined in section 101(a)(50) of the Immigration & Nationality Act, child, or parent of a United States citizen or lawful permanent resident who is abused by such United States citizen or lawful permanent resident, to self-petition for lawful immigration status without the knowledge or participation of the abuser;

(b) allowing child victims of abusive United States citizen or lawful permanent resident parents, and derivative children of abused self-petitioners, to remain eligible for immigration benefits after turning twenty-one; and

(c) the use of Legal Services Corporation funding for services for victims of human trafficking, domestic violence, and crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act that occur in the United States or its territories, regardless of the victim’s immigration status.

FURTHER RESOLVED, that the American Bar Association opposes:

(a) the apprehension of victims of human trafficking, domestic violence, or crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act that occur in the United States or its territories, for immigration violations, at shelters, crisis centers, or courts where victims are seeking protection orders; and

(b) the placement of victims of human trafficking, domestic violence, and crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act that occur in the United States or its territories, in removal proceedings and immigration detention, who may be eligible for immigration relief and who do not pose a danger to others or to national security.
EXECUTIVE SUMMARY

Summary of Recommendation:

This recommendation supports avenues for lawful immigration status, employment authorization, and public benefits for victims of human trafficking and other crimes (including rape, torture, domestic violence, sexual assault, and sexual exploitation). The recommendation further supports the use of Legal Services Corporation funding to provide services to such victims. The recommendation opposes the apprehension of victims of domestic violence, trafficking, and others crimes, for immigration violations, at shelters, crisis centers, or courts where they are seeking protection orders. Finally, the recommendation opposes placing such victims in removal proceedings or in immigration detention if they are eligible for immigration relief.

Summary of the Issues Which the Recommendation Addresses:

To apply for legal status based on a family relationship, a United States citizen (USC) or Lawful Permanent Resident (LPR) relative must file a petition on the applicant's behalf to classify him or her as an eligible relative. Prior to the enactment of the Violence Against Women Act (VAWA) of 1994, abusive USC's and LPR's were able to use the immigration laws as a mechanism to further abuse and control their immigrant spouses and children. Perpetrators of domestic violence would routinely thwart or threaten to thwart the visa petitioning process. Reauthorization of the VAWA is currently in negotiations in Congress, but existing Association policy does not address the issues necessary to weigh in during the negotiations. The VAWA 2005 would allow children of abusive USC's and LPR's to remain eligible for immigration benefits after turning twenty-one. It would also prohibit DHS from apprehending undocumented victims of human trafficking, domestic violence, and other crimes at shelters, crisis centers, and courts where they are seeking protection orders. In addition, the recommendation supports avenues for immigration relief and benefits for victims of human trafficking and other crimes including domestic violence and sexual assault.

Explanation of How the Proposed Policy Position Will Address the Issue:

The proposed recommendation supports allowing an abused spouse, child or parent of an abusive U.S. citizen or permanent resident, to self-petition for lawful immigration status without the knowledge or participation of the abuser. The recommendation also supports allowing child victims of an abusive U.S. citizen or permanent resident to remain eligible for immigration benefits after turning twenty-one. The recommendation opposes the apprehension for immigration violations of victims of human trafficking, domestic violence, and other crimes, at shelters, crisis centers, or courts. It also opposes the placement of such victims, who may be eligible for immigration relief, in removal proceedings and immigration detention.
Summary of Any Minority Views or Opposition Which Have Been Identified:

None to date.
AMERICAN BAR ASSOCIATION

SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

COUNCIL ON RACIAL AND ETHNIC JUSTICE

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

RESOLVED, That the American Bar Association urges the United States Congress to 1) create and appropriate funds for a Commission to study and make findings relating to the present day social, political, and economic consequences of both slavery and the denial thereafter of equal justice under law for persons of African descent living in the United States; and 2) authorize the Commission to propose public policies or governmental actions, if any, that may be appropriate to address such consequences.
EXECUTIVE SUMMARY

a) **Summary of the Recommendation:**

This recommendation calls for the American Bar Association to urge Congress to appropriate funds for and create a Commission to study and make findings relating to the present day social, political and economic consequences of both slavery and the denial thereafter of equal justice under law for persons of African descent living in the United States, and to propose public policies or governmental actions, if any, that may be appropriate to address such consequences. The recommendation does not take a position on the form or substance of that Commission’s findings.

b) **Summary of the Issue the Recommendation Addresses:**

The treatment of enslaved Africans and of African-Americans in the post-slavery years has been an extraordinary chapter in American history, and it poses difficult questions about the present effects of past denials of justice.

To date, no one comprehensive study has attempted to document the affects of slavery and subsequent lawful discrimination to assess the extent to which legally-sanctioned inequality may have caused lingering disparities. A study of this kind is undoubtedly an enormous but important undertaking. The need for federal financing of such a study as a predicate for the development of appropriate public policies and governmental actions to address these effects is imperative.

Following the Hurricane Katrina disaster, President George W. Bush said,

> Americans of every race and religion were touched by this storm; yet some of the greatest hardship fell upon citizens already facing lives of struggle — the elderly, the vulnerable, and the poor. And this poverty has roots in generations of segregation and discrimination that closed many doors of opportunity. As we clear away the debris of a hurricane, let us also clear away the legacy of inequity.

This resolution would encourage Congress to formally and comprehensively study this country’s “legacy of inequity” and propose any policies or governmental actions that may be appropriate.

c) **Explanation of How the Recommendation Addresses the Issue:**

The ABA has long supported the promotion of racial equality and non-discriminatory practices within federal, state, and local governments. This recommendation would put the ABA on record as supporting a comprehensive, federally-funded study of the present
day social, political and economic consequences of both slavery and the denial thereafter of equal justice under law for persons of African descent living in the United States.

d) **Summary of Minority Views or Opposition**

None known at this time.
RESOLVED, That the American Bar Association urges Congress to pass legislation to establish a process to provide federal recognition and to restore self-determination to Native Hawaiians.

FURTHER RESOLVED, That self-determination and self-governance are defined as an authority similar to that which American Indian and Alaska Native governments possess under the Constitution to govern and provide for the health, safety, and welfare of their members.
EXECUTIVE SUMMARY

a) Summary of the Recommendation:

This recommendation calls for the ABA to urge Congress to pass legislation to establish a process to provide federal recognition and to restore self-determination to Native Hawaiians. It further resolves that self-determination and self-governance are defined as an authority similar to that which American Indian and Alaska Native governments possess under the Constitution to govern and provide for the health, safety, and welfare of their members. This recommendation does not seek to recognize a right of secession from the United States or to accord to Native Hawaiians any independent international status.

b) Summary of the Issue the Recommendation Addresses:

On November 23, 1993, to acknowledge the 100th anniversary of the 1893 overthrow of the Kingdom of Hawaii, the United States Congress acknowledged that the U.S.-sponsored overthrow of the Hawaiian Kingdom was illegal, and issued an apology to the Native Hawaiian people.

The Office of Hawaiian Affairs ("OHA"), a quasi-independent State agency, established by an amendment to the Hawaiian State constitution in 1978, administers programs and services to Native Hawaiians.

On February 23, 2000, the United States Supreme Court issued a ruling in the case of Rice v. Cayetano, holding unconstitutional the eligibility requirements for voting in elections of OHA trustees. Following the Supreme Court's decision in Cayetano, new civil actions were filed challenging the constitutionality of other aspects of OHA. If these challenges were to succeed, elements of the United States' 1959 compact with the people of Hawaii intended to benefit Native Hawaiians may be lost.

c) Explanation of How the Recommendation Addresses the Issue:

This Recommendation would put the ABA on record as supporting the extension of federal policies of self-determination and self-governance for America's native and indigenous people to include Native Hawaiians. In particular, this Recommendation would urge Congress to pass legislation to establish a process for federal recognition and self-determination for Native Hawaiians, similar to the federal recognition granted to Native Americans and Alaskan Natives by the United States Government.

The Recommendation also reaffirms the ABA's longstanding commitment to addressing legal issues concerning America's native and indigenous peoples.

d) Summary of Minority Views or Opposition

None known at this time.
RESOLVED, that the American Bar Association supports the use of consent decrees as an important tool for resolving litigation, and opposes legislation that constrains the efficacy of consent decrees when state or local governments are parties thereto, such as proposed S. 489 and H.R. 1229 (109th Congress), consistent with the following principles:

1. The duration and all other terms of a consent decree should be determined by the language of the decree itself as interpreted by courts of competent jurisdiction, or as otherwise modified by such courts for good cause shown, not through legislation;

2. Consent decrees that do not state a specific duration should remain in effect until terminated or modified by a court of competent jurisdiction for good cause shown; and

3. The burden of proof with respect to a motion to modify or terminate a consent decree should remain on the party seeking modification or termination, not on the party that obtained the original consent decree.
Executive Summary
Report on Federal Consent Decrees

Summary
The Recommendation proposes the American Bar Association support the use of consent decrees as an important tool for resolving litigation and opposes legislation that constraints the efficacy of consent decrees when state or local governments are parties thereto, such as proposed in S. 489 and H.R. 1229.

Summary of the issue which the recommendation addresses:
Consent decrees entered in federal courts between agencies of the United States and state and local governments have long been an effective tool in enforcing federal law and policy. In the current session of Congress, legislation has been introduced that would greatly eviscerate the utility of consent decrees. The result would be less flexibility, more litigation, and outcomes that would neither advance federal policy nor promote inter-governmental harmony.

Consent decrees protect and promote laws that preserve public health and safety, minority rights, environmental regulations, and many areas of federal policy. By entering consensual agreements, the federal government is able to craft solutions with states and localities that a trial court could not otherwise order. In many instances the relief available in court can be extremely draconian. Consent decrees give the parties the flexibility to come into compliance with federal law in a reasonable amount of time and in a manner that may be more achievable than what a court would order. States and localities enter consent decrees because they believe that the alternative of litigation is far less favorable than the terms they could agree to consensually.

Without consent decrees, the federal government would have very little incentive to settle cases. While a judgment awarded after trial would be permanent, a settlement reached collaboratively with a state and local government – and then incorporated into the kind of limited consent decree envisioned by the pending legislation - could lapse and might need to be constantly relitigated.

As introduced, pending legislation in Congress would jeopardize the continuity of all consent decrees entered into by state and local governments. Upon the change of the political leadership of a state or locality or four years, whichever comes first, the state or local government could move to vacate or modify the consent decree. The original plaintiff (in almost all cases the federal government) could oppose the motion but the burden of proof would shift to that party to prove the underlying basis for continuing the decree. In the absence of a ruling by the Court within 90 days of a motion to vacate or modify, the consent decree would lapse until the Court rules.
How will the propose policy position address the issue:

The proposed resolution supports the use of consent decrees as an important tool for resolving litigation, and opposes legislation that constrains the efficacy of consent decrees when state or local governments are parties thereto, such as proposed S. 489 and H.R. 1229 (109th Congress), consistent with the following principles:

1. The duration and all other terms of a consent decree should be determined by the language of the decree itself as interpreted by courts of competent jurisdiction, or as otherwise modified by such courts for good cause shown, not through legislation;

2. Consent decrees that do not state a specific duration should remain in effect until terminated or modified by a court of competent jurisdiction for good cause shown; and

3. The burden of proof with respect to a motion to modify or terminate a consent decree should remain on the party seeking modification or termination, not on the party that obtained the original consent decree.

Summary of any minority views of opposition which have been identified:
None.
RESOLVED, That the ABA urges the development and adoption thereafter, of a uniform law that would permit unsworn declarations under penalty of perjury to be executed by persons located outside the United States in lieu of affidavits, verifications, or other sworn documents in state or territorial judicial proceedings, as is currently the federal practice under 28 U.S.C. §1746.
EXECUTIVE SUMMARY

1. Summary of the recommendation:

That the ABA urge the adoption by states of a uniform law that would permit unsworn declarations under penalty of perjury to be executed by persons located outside the United States in lieu of affidavits, verifications, or other sworn documents, as is currently the federal practice under 28 U.S.C. §1746.

2. Summary of the issue which the recommendation addresses:

Consular notarization of affidavits executed abroad has become impractical and burdensome as a result of increased security measures at U.S. consular and diplomatic facilities abroad. This proposal, if adopted, would lead to development of a uniform law that would extend to state court and other proceedings, in the states where it is adopted, the simple federal procedure of utilizing unsworn declarations under penalty of perjury with regard to foreign declarants. It would eliminate the need for consular notarization of affidavits overseas and ease the burden on individuals who are willing to provide information important to state proceedings in the U.S.

3. Explanation of how the proposed policy position will address the issue:

ABA adoption of the recommendation as policy would, it is hoped, provide an impetus for development of a uniform state law that will be enacted into law in the states.

4. Summary of any minority views or opposition which have been identified:

Initial consideration was given to an amendment to 28 U.S.C. §1742 to make it applicable in state proceedings with regard to foreign declarants. Concerns were expressed concerning whether the proposal could be constitutionally effected through federal legislation rather than state laws. The recommendation was revised to propose a uniform state law, rather than federal legislation, and no minority views or opposition to the recommendation, as revised, have been expressed.
RESOLVED, That the American Bar Association adopts the attached Statement of Core Principles of the legal profession, adopted by the international bar presidents meeting in Paris, France, on November 19, 2005.

FURTHER RESOLVED, That the American Bar Association urges bar associations throughout the world actively to support and advance the Rule of Law.
STATEMENT OF CORE PRINCIPLES

Adopted by the Bar Association Presidents Meeting in Paris, France
November 19, 2005

Maison du Barreau

The legal profession throughout the world, in the interest of the public, is committed to these core principles:

1) An impartial, and independent, judiciary, without which there is no rule of law.

2) An independent legal profession, without which there is no rule of law or freedom for the people.

3) Access to justice for all people throughout the world, which is only possible with an independent legal profession and an impartial, and independent, judiciary.

And that, these core principles shall not yield to any emergency of the moment.
EXECUTIVE SUMMARY

1. Summary of the recommendation:

This recommendation urges adoption of the Statement of Core Principles of the legal profession adopted by the approximately one hundred bar association presidents and leaders who met in Paris, France, November 19, 2005, and calls on bar associations throughout the world to support and advance the Rule of Law.

2. Summary of the issue which the recommendation addresses:

The maintenance and expansion of the Rule of Law throughout the world holds the most promise for promoting stability, freedom and justice. The organized bar in all nations has the responsibility to promote the fundamental principles associated with the Rule of Law. The efforts of the American Bar Association and bar associations worldwide to promote the Rule of Law are most effective when undertaken in a cooperative and coordinated fashion.

3. Explanation of how the proposed policy position will address the issue:

The ABA has a wide range of existing substantive policies on the Rule of Law, but no affirmative statement encouraging all bar associations to promote the Rule of Law and work cooperatively to do so. This policy will broaden the Association’s existing role as a convener and supporter of international Rule of Law initiatives.

4. Summary of minority views or opposition:

No minority or opposing views have been identified.
RESOLVED, That the American Bar Association urges the Attorney General of the United States to issue a memorandum to Freedom of Information Act (FOIA) officials at federal agencies clarifying that the designation of agency records as "sensitive but unclassified" cannot be a basis for withholding agency documents from release. The memorandum should also establish a standard policy for 1.) designating information as "sensitive but unclassified;" 2.) the internal handling of such information; 3.) taking into account the sensitive nature of such information; and 4.) the release of such information under FOIA.
EXECUTIVE SUMMARY

SUMMARY OF THE RECOMMENDATION:

This Recommendation proposes a consistent federal policy on the designation and treatment of federal agency records as “sensitive but unclassified” (SBU) information.

SUMMARY OF THE ISSUE WHICH THE RECOMMENDATION ADDRESSES:

The Recommendation urges the U.S. Attorney General to give guidance to federal agencies clarifying that designating a document as SBU does not constitute an independent legal basis for exempting information from public disclosure under the Freedom of Information Act (“FOIA”). Federal agencies have been increasingly using this term within the last four years, due to concerns over terrorists gaining access to federal agency records. There have been no clear standards for when and by whom the term may be applied. The SBU designation has been used to signal that certain records, while not being classified as national security information, need to be handled more cautiously or safeguarded, pending a decision on any future FOIA request for disclosure. But SBU status alone does not signify that the records can be lawfully withheld from requests made under FOIA.

EXPLANATION OF HOW THE PROPOSED POLICY POSITION WILL ADDRESS THE ISSUE:

This Recommendation builds on existing ABA policy supporting open government. It proposes to lessen the confusion between government safeguarding of sensitive files, some of which may be accessible under the Freedom of Information Act (FOIA), and agency withholding of information that is exempt from FOIA.

SUMMARY OF AN MINORITY VIEWS OR OPPOSITION:

None identified.
RESOLVED, That dues for members of the Association shall be in accordance with the following schedule, effective with the 2006-2007 fiscal year:

$ 0 if admitted to the bar less than one year
$125 if admitted to the bar one year but less than two years
$135 if admitted to the bar two years but less than three years
$145 if admitted to the bar three years but less than four years
$155 if admitted to the bar four years but less than five years
$175 if admitted to the bar five years but less than six years
$210 if admitted to the bar six years but less than seven years
$250 if admitted to the bar seven years but less than eight years
$275 if admitted to the bar eight years but less than nine years
$299 if admitted to the bar nine years but less than ten years
$399 if admitted to the bar ten years or more.

FURTHER RESOLVED, That a $40 coupon shall be available for members admitted to the bar one year but less than six years to be applicable toward the cost of section membership(s).

FURTHER RESOLVED, That the following dues structure shall apply to the Faculty Group Membership Program effective with the 2006-2007 fiscal year:

<table>
<thead>
<tr>
<th>Student Enrollment</th>
<th>Annual Fee FY 2006-2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 250</td>
<td>$2,725</td>
</tr>
<tr>
<td>250-499</td>
<td>$4,720</td>
</tr>
<tr>
<td>500-799</td>
<td>$6,150</td>
</tr>
<tr>
<td>800-999</td>
<td>$8,810</td>
</tr>
<tr>
<td>1,000 or more</td>
<td>$11,550</td>
</tr>
</tbody>
</table>

FURTHER RESOLVED, That dues for Associates shall be $175 effective with the 2006-2007 fiscal year.
FURTHER RESOLVED, That limited testing of new dues pricing concepts be allowed with the approval of and oversight for each test by the ABA Board of Governors and that collectively these tests would never involve more than 15% of the total ABA membership.
EXECUTIVE SUMMARY

a) Summary of the Recommendation

The ABA Board of Governors recommends that membership dues be increased by approximately 17%, to be effective with the 2006/2007 fiscal year.

The ABA Board of Governors also recommends that limited testing of new dues pricing concepts be allowed.

b) Summary of the issue which the recommendation addresses

It is projected that despite rigorous cost management, the ABA will find itself in a negative budget situation starting in Fiscal Year 2006/07.

When analyzing and developing a dues increase recommendation, very limited data are available from which to determine alternatives that produce the needed revenue with the least amount of impact on membership.

c) An explanation of how the proposed policy position will address the issue

A dues increase of approximately 17% combined with continued sound fiscal discipline will allow a balanced operating budget for at least the next three years.

Limited testing of new dues pricing concepts with the approval of and oversight by the Board of Governors and not to exceed 15% of total ABA membership, will provide significantly improved intelligence from which to make future dues increase recommendations.

d) A summary of any minority views or opposition which have been identified

No minority views or opinions have been identified.